

The Law Office of Diana Rubin

Main & Mailing Address:

**1129 Northern Blvd
Suite 404
Manhasset, NY 11030
Tel (212) 603-9334
Fax (516) 272-4171**

By appointment only:

**Americas Tower
1177 Avenue of The Americas
New York, New York 10036**

Date: August 24, 2020

To: Honorable, Paul A. Engelmayer
United States District Judge
Southern District of New York
Queens County Civil Court
40 Foley Square, Room 2201
New York, NY 10007

Via ECF filing

Re: Gold Town Corp. v. United Parcel Services, Inc.; and Kenneth Ransom, Case 1:20-Cv-06287

Dear Judge Engelmayer,

This office represents Gold Town Corp., plaintiff in the-above-entitled action. By way of background, an action was commenced against the defendants in New York Civil Court, New York County, alleging solely state claims against the defendants: negligence, conversion, replevin, unjust enrichment, and fraud. Plaintiff's complaint set forth in great details, supported by exhibits, the essence of the case. Which in sum involved UPS not delivering the package to co-defendant in a timely fashion¹ and after claiming that the lost package was found UPS promised to return it to plaintiff, instead it had shipped the package under new tracking information to co-defendant ransom.

¹ on 12/14/2019, co-defendant, Ransom, purchased a 14 Karat solid gold necklace from plaintiff (Amazon seller), on Amazon in the amount of \$2,350. On 12/16/2019 Plaintiff shipped the necklace via UPS "next day delivery." The item was not received by Ransom, because UPS claimed initially that it would be delivered with a delay, then it claimed that the package was lost, and eventually on 12/27/202 UPS claimed that the package was located and that it will be shipped back to plaintiff. Co-defendant, demanded a refund, and after verbal and written confirmation (all of which was annexed to the complaint) from UPS, a full refund was issued to co-defendant Ransom. Unknown to plaintiff, UPS without plaintiff's consent nor knowledge issued another tracking number and delivered the package to Ransom on 01/02/2020. Plaintiff was notified of the same by a letter dated 01/22/2020 from UPS.

The action was commenced on July 9, 2020, and the same was personally served on UPS that very same day. UPS removed that instant action on August 10, 2020, on the 32nd day after service.

Furthermore, on 08/18/2018 UPS moved this court to dismiss plaintiff's complaint, with plaintiff's response to be filed by 09/03/2020.

On 08/24/2020, Gold Town moved the court to remand the case back to state court. Based on the facts that the plaintiff's complaint was solely based on state claims coupled with UPS's late removal, it is highly likely that plaintiff's motion will be granted.

On 08/18/2020, plaintiff was ordered to to file its amended complaint by 09/08/2020.

Based on the foregoing, plaintiff requests to stay UPS's motion to dismiss and Court's order to file amended complaint, and all other obligations pertaining to plaintiff's deadlines, pending the court's decision on plaintiff's motion to remand.

Very truly yours,



Diana Rubin

Via ECF and email
To: Morrison & Forester LLP
Steven T. Rappoport
250 West 55th Street
New York, NY 10019
SRappoport@mofo.com

Granted. The Court hereby stays the briefing schedule for the motion to dismiss, set forth at Dkt. 10, pending the Court's resolution of plaintiff's motion to remand. The briefing schedule for the motion to remand, set out in the Court's initial scheduling order at Dkt. 4, remains in place. SO ORDERED.



PAUL A. ENGELMAYER 8/25/2020
United States District Judge